Where the abutting owners own the fee, they are entitled to substantial damages for its taking for street purposes, even though private easements already exist in favor of others. *City of Buffalo* v. *Pratt*, 131 N. Y. 293, 30 N. E. 233; *In re Ninety-Fourth Street*, 22 N. Y. Misc. 32, 49 N. Y. Supp. 600. But it is generally held that a grantor who has retained the bare fee in the plotted streets can get only nominal damages when it is taken. *Matter of the City of New York*, 196 N. Y. 286, 89 N. E. 829; see *Gamble* v. *Philadelphia*, 162 Pa. St. 413, 29 Atl. 739. Abutting owners with nothing but private easements, as in the principal case, are also unable to recover substantial compensation in the ordinary case where a public highway is substituted for the plotted streets. *Clayton* v. *Gilmer County Court*, 58 W. Va. 253, 52 S. E. 103. *Matter of the City of New York*, *supra*. Usually, the private easement is not even destroyed, but continues to exist independently of the public right and will revive on the abandonment of the highway. See *Ross* v. *Thompson*, 78 Ind. 90, 93. *Cf. Holloway* v. *Southmayd*, 139 N. Y. 390, 34 N. E. 1047. And in any event, it is difficult to prove damage, for the abutter receives the distinct advantage of a public street, whose maintenance devolves upon the city. It is conceivable, however, that the private enjoyment may be such that it will be impaired by the enlarged public user, and in such cases, the damages in fact sustained should be recoverable. See *Lowery* v. *City of Pekin*, 186 Ill. 387, 57 N. E. 1062.

EVIDENCE — CONFESSIONS — INVOLUNTARY CONFESSION OF ONE CRIME INADMISSIBLE AT TRIAL FOR ANOTHER — *RES JUDICATA*. — The defendant was on trial for perjury alleged to have been committed by him in denying the criminal act at a former trial for rape. The state offered in evidence a confession made when under arrest for rape, which was not in writing, or preceded by warning, and so failed to comply with the requirements of the statute. TEX. CODE CRIM. PROC., § 790. The defendant objected, and also set up his acquittal at the former trial. *Held*, that the confession is inadmissible. *Semble*, that the acquittal was no bar to the prosecution for perjury. *Murff* v. *State*, 172 S. W. 238 (Tex. Cr. App.).

According to the court's interpretation of the statute, an involuntary confession is made inadmissible for all purposes. This conclusion is in harmony with the reason of the confession rule and the authorities indicate that the same result would be reached even at common law. Thus an involuntary confession by the defendant has been held inadmissible to impeach him as a witness at his trial for the very crime. *Jones* v. *State*, 149 N. W. 327 (Neb.). See 28 HARV. L. REV. 428. At the trial of another person for the same crime, it is true, a prior involuntary confession by a witness has been considered competent to impeach him. See *State* v. *Mills*, 91 N. C. 581. But a confession by the defendant himself of a crime other than that for which he is on trial has been held admissible to prove his guilt only on proof that it was voluntary. *State* v. *McDaniel*, 39 Ore. 161, 65 Pac. 520; *cf. State* v. *Jones*, 171 Mo. 401, 71 S. W. 680. It would seem that the confession in the principal case would likewise be inadmissible, although it could not be condemned directly as an involuntary confession of the perjury later committed. Whether or not the prior acquittal of the substantive crime would conclude the question of perjury, would depend on the precise issue at the other trial. In substance, the rules with respect to *res judicata* are the same in criminal as in civil causes. See *Coffey* v. *United States*, 116 U. S. 436. VAN FLEET, FORMER ADJUDICATION, § 594. Thus an acquittal of another crime has been held to bar a subsequent prosecution for perjury where the court found that the parties, the point in issue, and the *quantum* of proof required were the same. *United States* v. *Butler*, 38 Fed. 498; *Cooper* v. *Commonwealth*, 106 Ky. 909, 51 S. W. 789. In the principal case, therefore, it seems that the defendant should be able to stand upon the other acquittal only if the perjury

charged was the denial of the criminal act, and collateral questions, such as the victim's age, had not been in issue. To bar the later prosecution for perjury involves the danger that an acquittal obtained by perjured denials will absolve the defendant from the perjury as well, and this possibility demands a strict administration of the rule.

EVIDENCE — GENERAL PRINCIPLES AND RULES OF EXCLUSION — MATTERS LIKELY TO MISLEAD JURY: PRIVATE RULES TO SHOW STANDARD OF CARE. — In an action for negligent injury by a street car the plaintiff offered the private rules set by the company for its employees as evidence of the proper standard of care. *Held*, that such rules are inadmissible. *Virginia Railway & Power Co.* v. *Godsey*, 83 S. E. 1072 (Va.).

The private rules of a company are not admissible, unless possibly in connection with similar rules of other companies to show a general practice, except as admissions that conduct in violation of such rules is negligent. As admissions, however, they have but slight force, for ordinarily the rules impose on the employees a standard of care higher than that required by law, since the company is desirous of avoiding not simply liability but also accidents from the negligence of others. Furthermore, the policy against such evidence is strong, for the law should encourage the employer to set a high standard. To allow the rules to be introduced as admissions of the legal standard of care would induce carelessness and would penalize the cautious employer. The evidence of subsequent repairs to prove a previous negligent condition presents a close analogy. Such evidence is now always excluded. *Morse* v. *Minneapolis & St. L. Ry. Co.*, 30 Minn. 465, 16 N. W. 358; *Columbia & Puget Sound R. Co.* v. *Hawthorne*, 144 U. S. 202; *Hart* v. *Lancashire & Yorkshire Ry. Co.*, 21 L. T. N. S. 261. A few courts, however, have allowed the admission of private rules. *Lake Shore & M. S. Ry. Co.* v. *Ward*, 135 Ill. 511, 26 N. E. 520; *Stevens* v. *Boston Elevated Ry. Co.*, 184 Mass. 476, 69 N. E. 338; *Cincinnati Street Ry. Co.* v. *Altemeier*, 60 Oh. St. 10, 53 N. E. 300; *Delaware, L. & W. R. Co.* v. *Ashley*, 67 Fed. 209. The authority of some of these cases is weakened by the unsound reasoning upon which they rest. The Massachusetts court, for example, confuses private rules and municipal ordinances. See 27 HARV. L. REV. 317. And the Ohio court admits the evidence on the illogical ground that the rules are part of the *res gesta*. The better authorities support the view taken in the principal case, which seems much to be preferred. *Alabama Great Southern R. Co.* v. *Clark*, 136 Ala. 450, 34 So. 917; *Hoffman* v. *Cedar Rapids & M. C. Ry. Co.*, 157 Ia. 655, 139 N. W. 165; *Fonda* v. *St. Paul City Ry. Co.*, 71 Minn. 438, 74 N. W. 166.

FEDERAL COURTS — JURISDICTION AND POWERS IN GENERAL — *AD DAMNUM* REDUCED TO PREVENT REMOVAL FROM STATE TO FEDERAL COURT. — The plaintiff was suing in a state court for five thousand dollars, but received notice that the defendant was about to file a petition for removal to the federal court, and reduced his *ad damnum* by amendment to three thousand dollars to prevent the federal court from getting jurisdiction. *Held*, that the federal court has no jurisdiction. *Anderson* v. *Western Union Tel. Co.*, 218 Fed. 78 (D. C., E. D., Ark.).

A situation somewhat analogous to the principal case arises when a party changes his domicile for the purpose of getting his case into the federal courts. If a new domicile is actually acquired, the motive for the change is immaterial. *Williamson* v. *Osenton*, 232 U. S. 619. A real transfer of the property in dispute to a citizen of another state will likewise give the diversity of citizenship necessary to federal jurisdiction, whatever be the motive. *Briggs* v. *French*, 2 Sumner (U. S.) 251. But see FEDERAL JUDICIAL CODE, § 24. Similarly the decisions were unanimous to the effect that a *remittitur* even